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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

JOHNSON DESIGN ASSOCIATES,
INC., a California corporation and
SHARYN JOHNSON, an individual

Plaintiffs,

v.

DUX INTERIORS, INC., a New York
corporation, BO GUSTAFSSON, an
individual

Defendants.

COMPLAINT FOR INJUNCTIVE
RELIEF AND DAMAGES

BY FAX

DEMAND FOR JURY TRIAL

INTRODUCTORY STATEMENT

1. The instant claims for relief arise out of the wrongful termination of Plaintiffs' Marin and Sonoma County Duxiana Bed distributorship/franchise as well as other breaches and related wrongful conduct.

2. Plaintiffs Johnson Design Associates, Inc. (Johnson Design) and its owner Sharyn Johnson ("Ms. Johnson") bring this action against Dux Interiors, Inc. (Dux)

**ORIGINAL
FILED**
NOV 13 2007
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
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CV 07

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1 and its president Bo Gustafsson as a result of their wrongful termination, breach of
2 the agreement, and other unlawful discriminatory conduct. Ms. Johnson also brings
3 a claim for relief for intentional infliction of emotional distress against Dux and its
4 president, Bo Gustafsson.

5 3. Accordingly, Plaintiffs bring this action seeking: (1) damages, and (2)
6 injunctive relief to prevent Dux from terminating Plaintiffs' rights to operate its
7 Dux franchise in Marin and Sonoma Counties.

8 4. In the event that Plaintiffs are not granted injunctive relief for their wrongful
9 termination claim, Plaintiffs are entitled to recover their actual damages in
10 connection with the termination as well as its costs, disbursements, and reasonable
11 attorneys' fees incurred in prosecuting this action.

12 JURISDICTION AND VENUE

13
14 5. This Court has jurisdiction under 28 U.S.C. § 1332, because the parties are
15 citizens of different states and the amount in controversy exceeds the sum or value
16 of \$75,000, exclusive of interests and costs.

17 6. Venue in this case is based on 28 U.S.C. § 1391, in that part of the conduct of
18 the Defendants occurred in, and/or one or more of the Defendants and/or one of the
19 Plaintiffs has its principal place of business in Marin County.

20 7. This Court has personal jurisdiction over defendants because defendants have
21 sold distributorships/franchises to California residents including Plaintiffs and
22 entered into agreements for the sale of the same as well numerous goods for both
23 wholesale and retail purposes. Defendants have committed acts within and without
24 the State of California causing injury within the State through the regular course of
25 business or other persistent courses of conduct.

26 8. Intradistrict Assignment. The basis for assignment to the San Francisco
27 Division of the Northern District of California is that plaintiff Johnson Design
28

1 Associates, Inc has its principal place of business in Marin County.

2
3 **THE PARTIES**

4
5 9 Plaintiff Sharyn Johnson is a citizen of the United States and a resident of the
6 State of California.

7 10 Plaintiff Johnson Design Associates, Inc. is a California corporation, with its
8 principal place of business in Marin County.

9 11 Defendant Dux Interiors, Inc. is on information a New York Corporation
10 with its principal place of business at 227 East 58th Street, New York, NY 10022.

11 12 Defendant Bo Gustafsson is on information and belief a New York resident.

12 **ALLEGATIONS COMMON TO ALL CLAIMS**

13 13 Plaintiff Johnson Design Associates, Inc. is a licensed distributor/franchisee
14 of the Dux Interiors, Inc. ("Dux") line of beds and ancillary items under contract.
15 Plaintiff Sharyn Johnson is the owner of Johnson Design. Plaintiffs seek an
16 injunction to prohibit the termination of their distributorship/franchise. Plaintiffs
17 also seek to recover losses they have sustained and will sustain as a result of
18 Defendants' violations of their statutory, common law, and contractual duties.

19 14 Plaintiffs have served Dux as a distributor/franchisee continuously since
20 1991 pursuant to a contract which grants Plaintiffs them "evergreen" renewals and
21 permits termination only for cause after a notice and cure period. After this sixteen-
22 year history, Dux served Plaintiffs with a termination notice on October 12, 2007
23 alleging that a failure to utilize the registered trademark ® symbol in connection
24 with a single customer mailing constituted an incurable breach. Instead of using the
25 ® mark in connection with the mailing, Plaintiff used the "tm" designation. The
26 error was due to using a new vendor for printing.

27 15 The termination is wrongful and a pretext to convert Plaintiffs' valuable
28

1 business to the benefit Dux, Bo Gustafson (Dux's president), and their associates.
2 Indeed, Dux, Gustafson, and other associates to be identified have engaged in a
3 similar pattern across the country in recent years of terminating Dux
4 distributor/franchisees and converting their business for their own accounts.

5 16. In 2006 and 2007, Gustafson and Dux repeatedly threatened and intimidated
6 Plaintiffs that they should sell their business Dux's associates (including one Dan
7 Udoutch, a San Francisco resident) "while they still have something to sell." In
8 2007, Gustafsson, while present in the State of California, called Ms. Johnson in
9 Marin County and continued to harass and threaten her about "selling" her business
10 to Gustafsson's and Dux's associates.

11 17. In a mandatory sales meeting in New York in August 2006, Gustafsson tried
12 to intimidate and inflict such great emotional distress on Johnson that she would
13 capitulate and relinquish her business to Dux, Gustafsson, or its designated
14 associates. Ms. Johnson left the meeting distraught, shaking, and in desperate fear
15 for her livelihood. As noted, Gustafsson's campaign did not stop there and he has
16 repeatedly threatened and intimidated Ms. Johnson.

17 18. Dux has also sent harassing communications and the termination notice to
18 Plaintiffs employees with intention of disrupting such employment relations.

19 19. Dux has also caused Plaintiffs to lose sales and profits on account of
20 manufacturing defective merchandise and then putting a hold on all bed sales for a
21 thirty period during 2006.

22 20. Dux has breached its contract and failed to pay Plaintiffs for warranty item
23 reimbursements and other payments.

24 21. On information and belief, Dux has extended to other distributors/franchisees
25 prices, discounts, and incentives not offered to Plaintiffs in violation of the
26 agreement, the common law, and various statutes.

FIRST CLAIM FOR RELIEF

(Injunctive Relief)

22. The Plaintiffs hereby incorporate by reference the allegations contained in paragraphs 1 through 21 as if fully set forth herein.

23. Plaintiffs have suffered and continue to suffer immediate, substantial and irreparable injury, as a direct and proximate result of Dux's actions.

24. On October 26, 2007, Dux wrongfully terminated Plaintiffs' agreement after failing in its attempts to force Plaintiffs to sell their area to Dux or its associates in variance with applicable law and in breach of the agreement.

25. Plaintiffs have and will continue to suffer immediate, substantial and irreparable injury, so long as Dux stands by its wrongful termination of the agreement and continues its efforts exclude Plaintiffs from operating in their sales area and continues to try to force Plaintiffs to sell their franchise.

26. Plaintiffs were terminated for non-material variances with Dux's operating standards. Those variances amount, at best, to curable breaches. Plaintiffs are threatened with the loss of their property rights and livelihood, and their substantial investment in the business.

27. The longer that Dux is permitted to continue said actions, the greater and more irreparable the Plaintiffs' injury will be.

28. Plaintiffs have no adequate remedy at law for such on-going irreparable harm.

29. The Plaintiffs request that the Court issue a preliminary injunction pursuant to Rule 65 of the Federal Rules of Civil Procedure, ordering Dux to immediately cease and desist from its unlawful conduct, including an order that Dux reinstate Plaintiffs' agreement and restraining Dux and Gustafsson from harassing, wrongfully threatening termination, and enforcing the Dux agreements in variance

1 with it's terms and applicable law.

2 30 Plaintiffs further request that the Court issue a permanent injunction ordering
3 Dux to forever cease from its unlawful actions toward the Distributors.

4 WHEREFORE Plaintiffs pray for judgment as set forth below.

5
6 **SECOND CLAIM FOR RELIEF**

7 **(Breach of Contract and the Implied Covenant and Unfair Competition)**

8
9 31 Plaintiffs incorporate by reference Paragraphs 1 through 21 of this complaint.

10 32 Johnson Design has fully performed, or was excused from performing, all the
11 conditions and covenants required of them under their distributorship/franchise
12 agreements.

13 33 Dux breached the agreement and the covenant of good faith and fair dealing
14 by:

- 15 a. Wrongfully and pretextually terminating the agreement;
16 b. Providing substandard and sub-legal goods;
17 c. Failing to honor warranty and other reimbursement requirements; and
18 Participating and engaging in a scheme to defraud plaintiffs out of the
19 distributorship/franchise and converting it to its own account or that of its
20 associates;
21 d. Failing to properly advertise the brand and services and requiring
22 Plaintiffs to waste money on ineffectual advertising;
23 e. Failing to provide Plaintiffs like prices, discounts, and incentives offered
24 to others similarly situated;
25 f. Diverting plaintiffs customer orders to themselves and other more favored
26 franchisees;
27 g. Raising prices without the required thirty-day notice; and
28

1 h. Interfering with relations Plaintiffs' employees.

2 34. Dux's failure to provide Plaintiffs like prices, discounts, and incentives
3 offered to others similarly situated also constitutes common law unfair competition
4 as well as violates the federal and state antitrust law entitling Plaintiffs to treble
5 damages for such conduct.

6 35. Dux also breached the California Franchise Relations Act (implied into this
7 contract) by wrongfully and improperly terminating the contract and attempting to
8 convert the franchise to its own account or that of its associates.

9 36. As a direct result of the above mentioned breaches, Plaintiffs are entitled to
10 damages in an amount according to proof but in excess of the jurisdictional
11 minimum of this Court and, to the extent provided in the contract, or as otherwise
12 provided by law, to an award of reasonable attorneys' fees and costs incurred in this
13 action. Plaintiffs are entitled rescission, restitution, and ancillary damages. The
14 Plaintiffs will set forth that sum when more fully known or at time of trial.

15 WHEREFORE Plaintiffs pray for judgment as set forth below.

16
17 **THIRD CLAIM FOR RELIEF**

18
19 **(Conversion)**

20
21 37. Plaintiffs incorporate by reference Paragraphs 1 through 21 of this complaint.

22 38. By wrongfully terminating Plaintiffs' franchise, Defendants have converted
23 Plaintiffs' valuable property to their own account or those of their associates.

24 39. As a direct and proximate result of Defendants' conduct, Plaintiffs have been
25 damaged and are entitled to damages according to proof.

26 40. Defendants acted with oppression, fraud, and malice, and in conscious
27 disregard of the rights of the Plaintiffs entitling them to exemplary damages in an
28 amount according to proof.

1 WHEREFORE Plaintiffs pray for judgment as set forth below.

2 **FOURTH CLAIM FOR RELIEF**

3 **(Intentional Infliction of Emotional Distress)**

4
5
6 41. Plaintiffs incorporate by reference Paragraphs 1 through 21 of this complaint.

7 42. Gustafsson and other Dux employees have intentionally and/or recklessly
8 engaged in conduct toward the Ms. Johnson that is extreme and outrageous, with
9 intent to cause her emotional harm and relinquish her franchise. Moreover, the
10 wrongful a pretextual termination was intended to and did cause emotional harm.

11 43. As a direct and proximate result of the Defendants' actions, Johnson has
12 suffered severe and unnecessary anxiety, mental anguish and emotional distress,
13 and in some instances such emotional distress has manifested itself physically.

14 44. Defendants acted intentionally, willfully and wantonly, or in reckless
15 disregard for the Johnsons' rights or well being, and therefore an award of punitive
16 damages in an amount to deter such conduct on the part of Defendants is
17 appropriate.

18 WHEREFORE Plaintiffs pray for judgment as set forth below.

19
20 **FIFTH CLAIM FOR RELIEF**

21 **(Unjust Enrichment)**

22
23
24 45. Plaintiffs incorporate by reference Paragraphs 1 through 21 of this complaint.

25 46. Dux's conduct in encouraging and allowing Plaintiffs to serve as a Dux
26 franchisee and to build up the business of selling and servicing the Dux line, and to
27 make substantial investments of time and money at Dux's behest and in reliance on
28 a continuing dealership and then breaching its agreements and obligations, and the

1 corresponding reasonable expectations of Plaintiffs by terminating their agreement
2 to benefit themselves, constitutes unjust enrichment.

3 47 The amount by which Dux and Gustafsson have been, or will be, unjustly
4 enriched, and the amount which Plaintiffs are, or will be, entitled to recover from
5 Dux and Gustafsson cannot now be exactly determined, but will be fully
6 demonstrated at trial.

7 WHEREFORE, plaintiffs pray for judgment as set forth below.

8
9
10 **SIXTH CLAIM FOR RELIEF**

11 **(Violation of the California Unfair Competition Law)**

12
13 48 Plaintiffs incorporate by reference Paragraphs 1 through 21 of this complaint.

14 49 California Business and Professions Code Section 17200 prohibits “unfair
15 competition” defined as five categories of conduct: “unlawful, unfair or fraudulent
16 business act or practice and unfair, deceptive, untrue or misleading advertising and
17 any act prohibited by Chapter 1 (commencing with Section 17500) of Part 3 of
18 Division 7 of the Business and Professions Code.”

19 50 The scheme to terminate the instant franchise and defraud Plaintiffs out of
20 their valuable property and convert it to their own accounts or those of their
21 associates are acts and practices that violate Section 17200, et seq.

22 51 Defendants’ unfair competition presents a continuing threat to Plaintiffs’
23 interests and Defendants will persist in these practices until a permanent injunction
24 is issued by this Court.

25 52 Defendants have been unjustly enriched and have otherwise received monies
26 which should be restored and disgorged to the extent allowed by law.

27 WHEREFORE Plaintiffs pray for judgment as set forth below.
28

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that the Court enter Judgment against the Defendants, jointly and severally, as follows:

1. An order granting Plaintiffs injunctive relief prohibiting Dux from terminating Plaintiffs until or unless it has good cause, provides the requisite statutory notice, has provided Plaintiffs an opportunity to cure any alleged deficient material performance criteria, and the material deficiencies in performance remain.
2. A judgment awarding Plaintiffs their full amount of damages;
3. A judgment awarding punitive or exemplary damages against Defendants according to proof;
4. A judgment awarding Plaintiffs their costs, disbursements, and attorneys' fees incurred herein, to the extent authorized by law; and
5. Prejudgment and post judgment interest against Defendants;
6. Costs of suit;
7. For such other and further relief as maybe fair and just.

PLAINTIFFS DEMAND A TRIAL BY JURY

DATED: November 9, 2007

LAGARIAS & BOULTER, LLP

Robert S. Boulter
Attorneys for Plaintiffs

United States District Court
NORTHERN DISTRICT OF CALIFORNIA

E-filing

Johnson Design Associates, Inc a California
corporation, and Sharyn Johnson, an individual

SUMMONS IN A CIVIL CASE

CASE NUMBER:

V.

Dux Interiors, Inc., a New York corporation, Bo
Gustafsson, an individual

CV 07

5754

JCS

TO: (Name and address of defendant)

Dux Interiors, Inc.
227 EAST 58TH ST
NEW YORK, NY 10022

Bo Gustafsson
227 EAST 58TH ST, NEW YORK, NY 10222

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

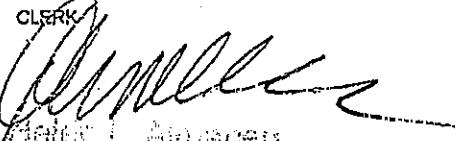
Robert S. Boulter
Lagarias & Boulter, LLP
1629 Fifth Avenue
San Rafael, CA 94901-1828

BY FAX

an answer to the complaint which is herewith served upon you, within **20** days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgement by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service

Richard W. Wieking

CLERK


Richard L. Anderson
(BY) DEPUTY CLERK

NOV 13 2007
DATE 11/13/07

JS 44 - CAND (Rev. 11/04)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974 is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet (SEE INSTRUCTIONS ON PAGE TWO)

I. (a) PLAINTIFFS

Johnson Design Associates, Inc. a California corporation, and
Sharyn Johnson, an individual

DEFENDANTS

Duxiana Interiors, Inc. a New York corporation, Bo Gustafson, an
individual

**(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF
(EXCEPT IN U.S. PLAINTIFF CASES)**

Marin County, CA

**COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT
(IN U.S. PLAINTIFF CASES ONLY)**

NOTE: IN LAND CONDEMNATION CASES USE THE LOCATION OF THE
TRACT OF LAND INVOLVED New York City

(c) ATTORNEYS (FIRM NAME ADDRESS AND TELEPHONE NUMBER)

Robert S. Boulter, Lagarias & Boulter, LLP, 1629 Fifth Avenue,
San Rafael, CA 94901-1828 (415) 460-0100

ATTORNEYS (IF KNOWN)

E-filing

II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 U.S. Government Plaintiff
☒ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|---------------------------------------|---|---------------------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input checked="" type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input checked="" type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

BY FA

IV. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ Original Proceeding ☐ Removed from State Court ☐ Remanded from Appellate Court ☐ Reinstated or Reopened ☐ Transferred from Another district (specify) ☐ Multidistrict Litigation ☐ Appeal to District Judge from Magistrate Judgment

V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input checked="" type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Motor Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Mediation Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault Libel & Slander <input type="checkbox"/> 330 Federal Employee Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury Med Malpractice <input type="checkbox"/> 365 Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 RR & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 680 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt Relations <input type="checkbox"/> 730 Labor/Mgmt Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl Ret Inc Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 851 HIA (1395(f)) <input type="checkbox"/> 862 Black Lung (823) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commercial/ICC Rates/etc <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Satellite TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 990 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Amer w/ disab - Empl <input type="checkbox"/> 446 Amer w/ disab - Other	PRISONER PETITIONS <input type="checkbox"/> 510 Motion to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

DIVERSITY 28 U.S.C. 1332

VII. REQUESTED IN COMPLAINT: ☐ CHECK IF THIS IS A CLASS ACTION DEMAND \$ CHECK YES only if demanded in complaint: UNDER F.R.C.P. 23 JURY DEMAND: ☒ YES ☐ NO**VIII. RELATED CASE(S) PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE IF ANY "NOTICE OF RELATED CASE".****IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2)**

(PLACE AND "X" IN ONE BOX ONLY)

☒ SAN FRANCISCO/OAKLAND

☐ SAN JOSE

DATE

SIGNATURE OF ATTORNEY OF RECORD

10/9/07

[Signature]